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August 3, 2006

VIA ELECTRONIC FILING

Illinois Commerce Commission
Telecommunications Division
527 East Capitol Avenue
Springfield, Illinois 62701

Re: Docket No. 04-0653

To the Commission:

This letter is to inform the Commission of a recent decision by the United States Court of Appeals for the Eleventh Circuit that vacated *Truth-in-Billing and Billing Format*, 20 F.C.C.R. 6448 (2005) ("*Truth-in-Billing*"). USCOC of Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Rockford, LLC, and USCOC of Central Illinois, LLC (collectively "USCOC") cited *Truth-in-Billing* at pages 3 and 4 of its Brief on Exceptions.

In *National Association of State Utility Consumer Advocates v. FCC*, Nos. 05-11682, 05-12601, 2006 WL 2105992 (11th Cir. July 31, 2006), the Eleventh Circuit held that the FCC's interpretation that a state prohibition or requirement of line items is expressly preempted by the language of 47 U.S.C. § 332(c)(3)(A) is not supported by the common definition of a "rate" as "the amount of a charge or payment ... having relation to some other amount or basis of calculation." The Eleventh Circuit decided that the prohibition or requirement of a line item, which is "a discrete charge identified separately on an end user's bill," affects the presentation of the charge on the user's bill, but it does not affect the amount that a user is charged. Because the regulation of line-item billing is not rate regulation, the Eleventh Circuit held that the express language of § 332(c)(3)(A) does not preempt state regulations that require or prohibit the use of line items on the bills of wireless carriers.

The Eleventh Circuit's decision is consistent with USCOC's argument, set forth at pages 2-4 of its Brief on Exceptions, that a Commission prescription of an amount of minutes of use of service that USCOC must provide free of charge to an end user will directly affect the amount the user is charged.

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I trust the information provided above will prove useful to the Commission. Should you have any questions, please feel free to contact me at the number provided above.

Sincerely,

A handwritten signature in dark ink, appearing to read "David A. LaFuria". The signature is fluid and cursive, with the first name "David" being more prominent.

David A. LaFuria

Encl.

cc: (Service list attached)